

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Cedillo Analyst: Roger Lackey Bill Number: AB 1992

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 08-08-2000

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** FTB Disclosure Of Tax Information To Charter Cities Within Agreement

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended June 22, 2000.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 22, 2000, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

Under the Administration of Franchise and Income Tax Laws (AFITL), this bill would permit the Franchise Tax Board (FTB) to disclose certain specified income tax information to tax officials of charter cities. Disclosure would have to be made under a written agreement and would be limited to information regarding taxpayers both with an address on record with FTB within the charter city and with income from a trade or business reported to the FTB. The information that may be provided is a taxpayer's name, address, social security or taxpayer identification number, and business activity code. Use of the information would be limited to employees of the taxing authority of a charter city.

### SUMMARY OF AMENDMENT

The August 8, 2000, amendment would allow the FTB to recover from a charter city the costs (including any one-time costs) associated with providing the charter city the information described above. Each charter city would pay its pro rata share of the costs.

As a result of the August 8, 2000, amendment, additional implementation considerations have been included below. In addition, the two implementation considerations provided in the department's analysis of the bill, as amended June 22, 2000, still apply and are included below.

Except for the discussion in this analysis, the department's analysis of the bill, as amended June 22, 2000, still applies.

#### Implementation Considerations

This bill would allow the department to share certain information, including business activity codes, with charter cities.

#### Board Position:

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<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

8/23/00

A large number of the business activity codes used by the department are obtained from Internal Revenue Service (IRS) data shared with the department. Federal law and IRS policy require that information obtained from the IRS by the department not be disclosed or be used in any manner not authorized. Currently, the department is authorized to use information obtained from the IRS to resolve state income tax issues. If the department uses the business activity codes or other information received from the IRS to select and gather information that is then to be reported to the charter city under the provisions of this bill, the department would exceed its authority to use IRS information. Consequently, reporting this information to the charter city would likely be interpreted by IRS as an unauthorized use of IRS information, and thus would be a violation of both federal law and the terms of FTB's agreement with IRS.

Current departmental systems do not have the ability to provide the information necessary to comply with the provisions of this bill without using federal data. To comply with the bill, the department would have to create a new database and process to capture the information that could be reported to the charter city. Without the new database and process, the department would not be able to provide the information to the charter city. In addition, the department would have no other use for this database and process beyond reporting the information to the charter city.

Of the approximately 60 charter cities within the state of California, it is unknown how many of these cities would participate in this program or for which this program would be cost beneficial.

It is unclear what "pro rata share of the cost" means. The bill does not define how "pro rata share of the cost" would be determined - based on the number of taxpayers in a city compared to the total number of California taxpayers, number of taxpayers in a city identified with business income compared to total taxpayers with business income, or some other formula. In addition, how the pro rata share would be determined could have an impact on whether the program would be beneficial to certain charter cities.

This bill would not provide that the costs associated with the program would be paid in advance by the charter cities. The department's budget does not account for the costs that would be associated with this program, and the department cannot use funding from other programs to cover these new costs.

For the department to implement this bill, the implementation considerations above must be resolved.

#### Departmental Costs

Since the department's current programs do not capture the necessary data to comply with this bill, and the department cannot use the federal information currently received for the reasons stated under Implementation Considerations, the department would need to develop a new process. To comply, the department would revise the Schedule CA and instructions to include a business activity code. Department staff would scan the Schedule CA and key the business activity code into a database where the information would be retained for future reporting to the charter city.

The department would incur significant costs related to creating the new process, additional employee hours, and purchasing equipment. In the year of implementation, it is estimated that departmental costs would be approximately **\$2 million** with an expected **29 personnel years (PYs)**. For the year following implementation, the departmental costs would be **\$849,172** with an expected **25.5 PYs**.

BOARD POSITION

No position.

At its July 5, 2000, meeting, the Franchise Tax Board agreed to take no position on this bill.